

CITY ATTORNEY'S OFFICE



MISSION STATEMENT:

To provide high quality legal services for the Mayor, Council, City officials, departments, boards, and commissions in the conduct of City business; to represent the City before judicial and administrative agencies in civil litigation proceedings; and to prosecute municipal code violations occurring in the City of Fresno.



The City Attorney's Office serves the City of Fresno, its elected officials, officers, and departments by providing high quality legal services in a timely and cost-efficient manner. The City Attorney's Office serves as legal counsel, and represents and appears for the City and certain boards, commissions, and agencies of the City in administrative and judicial proceedings. The Office also serves as legal counsel for the Fresno Redevelopment Agency (RDA), and performs, often in conjunction with special counsel, the legal work involved in financing transactions for the City and the RDA.

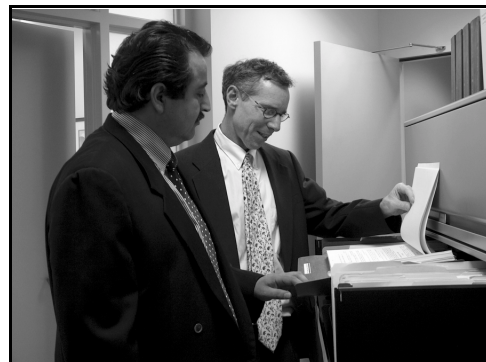
The City Attorney's Office plays a key role in the City's efforts to provide, expand, and improve services to its citizens. Significant time and resources are devoted to legal issues and advice associated with Mayor and Council-initiated projects, programs, and legislation. The Office prepares legal opinions, ordinances, resolutions, contracts, and other documents. The Office is responsible for implementing the legal aspects of various policies and programs established by the City.

The City Attorney's Office is organized into three work units:

Code Unit: The Code Unit handles a wide range of matters relating to the City's multi-faceted role as local governmental agency, employer, and provider of municipal services. The Unit is directly supervised by the Chief Assistant City Attorney. Tasks covered by the Unit fall into three categories: general municipal law, personnel matters, and code enforcement.

On matters relating to municipal law, the Unit ensures that the City maintains its integrity as a public agency, by ensuring compliance with the Charter and laws relating to open meetings, public records, conflicts of interest, and elections. The Unit advises the City on personnel matters, including employee rights, unlawful discrimination, benefits, discipline, and labor relations.

A majority of the work performed in the Unit is in code enforcement. The Unit works to protect the public safety and quality of life in the City by intervening to eliminate blight and public nuisances and to stop criminal conduct through civil enforcement and criminal enforcement. Vacant and dilapidated buildings, trash, abandoned cars, fire code violations, and substandard houses are a public safety threat, create blight, and attract crime. The Unit works with the Police Department in prosecuting quality of life crimes such as parking of cars on front yard lawns, loitering for drug activity, and loitering for prostitution. Cross training is



provided in both civil code enforcement and criminal code enforcement so that legal services are provided in an aggressive, just, and effective manner.

Civil Advisory Unit: The Civil Advisory Unit provides advisory and transactional services to elected officials, and all City departments as well as the RDA and the Planning Commission. Services include legal advice; negotiations; written opinions; drafting and review of documents including deeds, leases, purchase and sale agreements, bid specifications, development agreements, bond documents, resolutions, and ordinances. The Unit handles a wide array of transactions from standard municipal contracts to complex, highly sophisticated, and large dollar transactions, such as the wastewater treatment plant, federal courthouse project, the downtown baseball stadium, municipal bond financing, and multi-million dollar construction projects.

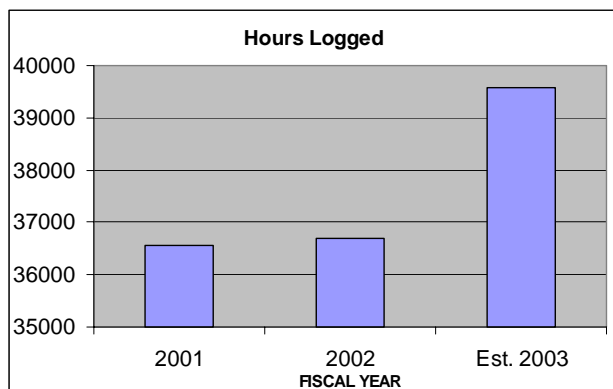
Litigation Unit: The Litigation Unit provides full-scale litigation services in numerous areas of municipal law including land use, California Environmental Quality Act (CEQA), tort litigation, labor relations, civil rights, housing, public works construction, personnel, eminent domain, and redevelopment. Many cases are resolved through dismissal and others through settlement. The Unit provides representation through trial and appeal, as appropriate. In some situations, cases in this Unit are contracted out for reasons such as limited staffing, workload demands, or the need for special expertise. In these instances, the Unit monitors contract counsel and ensures timely reports to Council on the case status.



FY 2002/2003 ACCOMPLISHMENTS

Maintenance of Essential Services

- **General Municipal Law Matters:** The Office conducted a training session with Department Directors on Open Meeting Law requirements, updated the Fresno Municipal Law Handbook, provided advice on Public Records Act requests, prepared conflict of interest and election law opinions, and provided numerous opinions and memoranda on these subjects. The Office provided a significant amount of legal services via e-mail. In FY 2003, the Office exceeded each of its four Performance Measures, as shown in the Activity Indicators graphs section. The Office reviewed and approved 1,110 routine contracts, 184 resolutions, 22 ordinances, and 549 disciplinary actions.
- **Personnel Matters:** The Office represented the City before the Civil Service Board on 61 personnel appeals, one grievance arbitration, provided legal opinions and advice on numerous personnel-related matters (Family Medical Leave Act, Americans with Disabilities Act, Workers' Compensation, background checks) and provided legal support during MOU negotiations with four bargaining units. The Office also provided legal advice on employee benefits issues such as health and welfare, review and revision of a Deferred Compensation Plan document for Economic Growth and Tax Relief Reconciliation Act of 2001 compliance, and review of amendments to the retirement ordinances.
- **Litigation:** The Office aggressively defended the City in civil litigation proceedings: one Risk case successfully defended through jury and court trial; two CEQA suits defended through trial (one City verdict, another decision pending); one successful CEQA appeal, and one trial pending; 24 cases settled; 20 cases against City dismissed after City motion or City waiver of costs. In the eminent domain area, 46 properties and property interests were acquired through eminent domain proceedings. The Office successfully resolved lawsuits involving delinquent real property assessments, delinquent Business Tax, delinquent Transient Occupancy Tax, and a breach of lease suit. The Office successfully resolved cases through alternate dispute resolution proceedings such as mediation and arbitration.
 - ▶ A few examples of major cases which involved policy, complex legal issues, and high dollar amounts are: Affordable Housing Development Corporation v. City; City v. County of Fresno, LAFCO, and City of Clovis; Bombay v. City; City v. Shell Oil; Gutierrez v. City; JC Markets v. City; Medical Advocates for Healthy Air v. City; Scarborough v. City; Turner v. City; several stop notice lawsuits filed against the City as a result of the IT Corporation bankruptcy.
 - ▶ Finally, the Office was able to retain considerable litigation in-house. Of 109 lawsuits (87 lawsuits served against the City, 22 lawsuits served by the City) only 16 were handled with contract counsel.
- **Extra Hours Work:** The volume of work was excessive. The Office operated with two vacant attorney positions, 1.0 FTE legal secretary position, and a vacant Management Analyst. Attorneys logged in an excess of 39,000 hours, well exceeding the expected billing hours in major law firms. Attorneys also responded on-scene, after hours, to multiple officer-involved shootings.



FY 2002/2003 ACCOMPLISHMENTS

Investments in Neighborhoods

- **Code Enforcement Ordinances:** The Office researched and drafted comprehensive ordinances to address specific code enforcement issues such as aggressive panhandling, code enforcement cost recovery, vacant buildings, vehicles for sale on streets, unlawful dumping, and abandoned shopping carts.
- **Code Enforcement Proceedings:** The Office handled 155 administrative appeal hearings, 65 show cause meetings (all successfully avoided litigation), and sent over 438 deficiency warning letters. The Office worked on several high profile code enforcement efforts, including the Yaweh's Best and Crippen sites.
 - The Office handled 789 criminal infractions, 862 misdemeanors (court appearances and filings), 54 court appearances on motions, and 30 discovery cases, all relating to code enforcement. The Office provided substantial training to Code Enforcement Officers, and assumed secretarial support responsibility for criminal prosecutions previously provided by Police Department staff.

Moving the City Forward and Job Creation

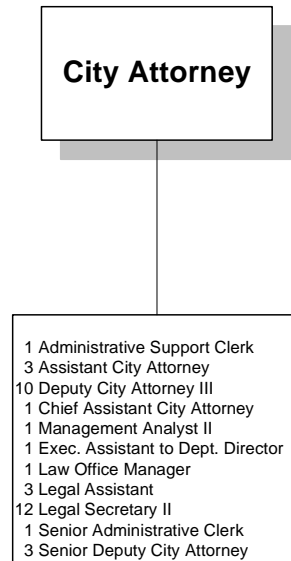
- **Major Projects and Transactions:** The Office served as an integral part of all major City and Agency projects and transactions. These projects are in keeping with the Mayor's four cornerstones for the FY 2004 budget. Work on projects like this is complex and includes legal advice, legal research, document drafting, document review, and negotiations. A few of these include:
 - 2025 General Plan Update and MEIR
 - Copper River Development Project
 - Comprehensive Competitive Bidding and Design Build Legislation
 - Crippen Recycling Facility Fire
 - Fancher Creek Development Project
 - Fifth District Court of Appeal
 - Housing Element update
 - Landfill Closure and Regional Sports Complex
 - Master Property Tax Sharing MOU: negotiations and drafting
 - Maximus Fee Study: legal opinions, resolutions, ordinances
 - PG&E franchise issues
 - RDA/Housing Authority
 - Rehabilitation Collaboration
 - Roeding Park Business Development Project
 - Running Horse Project
 - Sewage and Water Disposal ordinance
 - Sky Park Market Place
 - Streets/Parks Section 108 Loan
 - Sugar Pine Trail property acquisitions
 - Surface Water Treatment Plant
 - \$257.6 million in bond transactions
- **Job Training:** The Office provided over 450 hours of job site training for local high school students.

FY 2003/2004 ISSUES

- **Attorney Retention/Recruitment:** The budget submitted reflects no merit increases. Under these budget challenges, the Office faces difficulty in maintaining desired assignment turn-around times and the development of a more proactive legal environment.
- **Up-To-Date Library Resources:** The Office faces significant challenges to keeping the Office's Library current with changes to the law. This corresponds with the inability to provide professional legal services.
- **Workload Demands/Staffing:** Increased workload demands and no growth in staff continue to prevent the office from creating a more proactive legal environment.
- **Work/File Space Limitations:** The Office's current work and storage space allocation is inefficient. More space is also needed for file storage, document assembly, meetings, depositions, and any future staffing and equipment needs.
- **Response times from Other Departments:** Reductions felt by supporting Departments (e.g., ISD) affects the Office's turn-around time to provide legal services.



ORGANIZATION CHART - FY 2004



38.00 Permanent Full-Time Positions
38.00 Authorized Positions

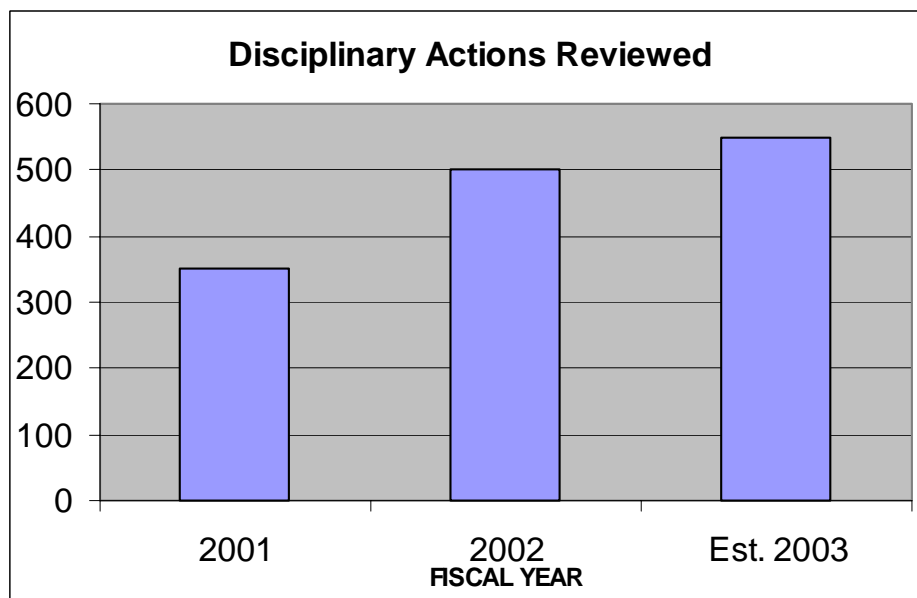
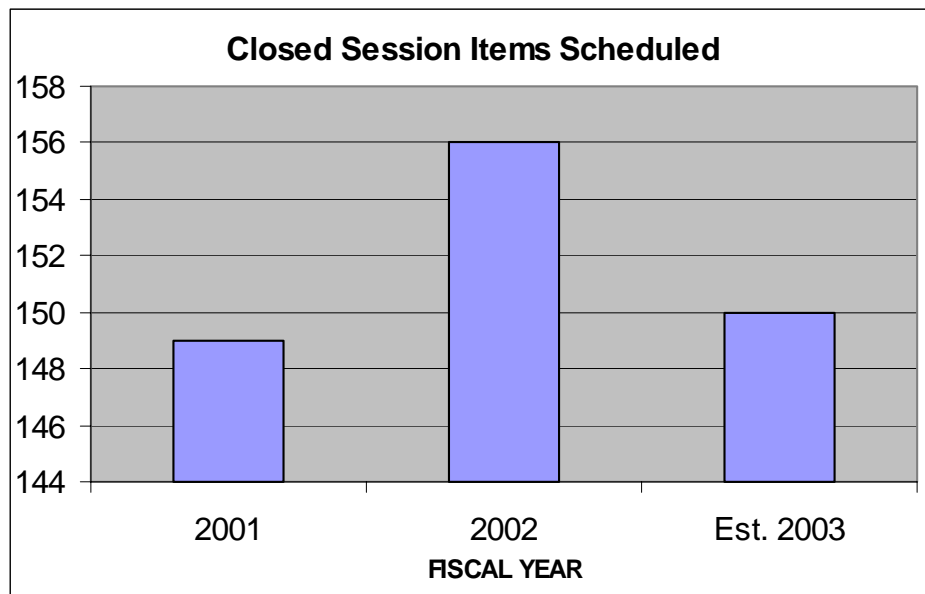
AUTHORIZED POSITIONS SUMMARY

DIVISION	FY 2002	FY 2003	FY 2004
City Attorney	1.00	1.00	1.00
Staff	34.75	37.00	37.00
TOTAL	35.75	38.00	38.00

AUTHORIZED POSITIONS

Title	Authorized Positions FY 2002	Authorized Positions FY 2003	Budgeted Positions FY 2004
PERMANENT FULL-TIME			
Administrative Support Clerk	1.00	1.00	1.00
Assistant City Attorney	6.00	6.00	3.00
Chief Assistant City Attorney	0.00	1.00	1.00
City Attorney	1.00	1.00	1.00
Deputy City Attorney III	10.00	10.00	10.00
Executive Secretary	1.00	1.00	0.00
Exec. Assistant to Dept. Director	0.00	0.00	1.00
Law Office Manager	1.00	1.00	1.00
Legal Assistant	3.00	3.00	3.00
Legal Secretary I	1.00	1.00	0.00
Legal Secretary II	10.00	11.00	12.00
Management Analyst II	0.00	1.00	1.00
Senior Administrative Clerk	1.00	1.00	1.00
Senior Deputy City Attorney	0.00	0.00	3.00
Full-time Total	35.00	38.00	38.00
Administrative Clerk I	0.75	0.00	0.00
FTE Total	0.75	0.00	0.00
Division Total	35.75	38.00	38.00

ACTIVITY INDICATORS



MANAGEMENT BY OBJECTIVE

MBO	Measure	Performance	
		FY 2003	FY 2004
Provide status reports to the Council on legal matters.	Closed session items scheduled.	100	100
Provide legal services as needed.	Requests for legal services.	1,500	1,500
Provide legal advice on personnel matters.	Routine contracts and resolutions reviewed.	1,000	1,000
	Disciplinary actions reviewed.	350	350



UNFUNDED NEEDS

- **Employee Services: \$47,900**
 - ▶ Permanent Salaries - This request corresponds to a three percent merit and equity increase for E-Range Employees (Attorneys and Law Office Manager). Impacts maintaining current staffing levels, and increased reliance on contract counsel.
Cost: \$46,900
 - ▶ Overtime - Restore funding to the FY 2003 level for support staff to meet unplanned workload demands. Impacts service delivery and response time.
Cost: \$1,000

BUDGET COMMENTS

- The City Attorney's Office has managed to turn around the deficit fund balance of previous years and has made a \$430,800 reduction in Citywide Attorney charges. This reduction reflects the ongoing cost of operations.
- Authorized Positions for FY 2004 reflected no change from the prior year and included four vacancies (Senior Deputy City Attorney, Deputy City Attorney III, Legal Secretary II, and a Management Analyst II).
- The City Attorney's Office is developing a plan to streamline the increasing volume of workload demand. The plan calls for the City Attorney to meet periodically with the City Council's President and Acting President in order to prioritize the requests from Council members. The City Attorney will also meet with Department Directors on a regular basis to prioritize legal service requests.
- The City Attorney's FY 2004 Employee Services costs include \$50,000 to assist with recruitment efforts to fill vacant attorney positions.

DEPARTMENT FUNDING BY SOURCE

Fund	FY 2001 Actuals	FY 2002 Actuals	FY 2003 Adopted	FY 2004 Proposed	FY 2004 Adopted
Charges for Services	\$ 2,828,731	\$ 3,349,746	\$ 4,366,500	\$ 3,520,600	\$ 3,570,600
Fund Balance	(1,335,313)	(1,319,402)	(947,000)	(45,000)	(45,000)
TOTAL	\$ 1,493,418	\$ 2,030,344	\$ 3,419,500	\$ 3,475,600	\$ 3,525,600

DEPARTMENT SUMMARY APPROPRIATIONS

Expenditures	FY 2001 Actuals	FY 2002 Actuals	FY 2003 Adopted	FY 2004 Proposed	FY 2004 Adopted
City Attorney	\$ 2,858,475	\$ 2,837,272	\$ 3,419,500	\$ 3,474,600	\$ 3,524,600
TOTAL	\$ 2,858,475	\$ 2,837,272	\$ 3,419,500	\$ 3,474,600	\$ 3,524,600



City Attorney's Department
DIVISION: 140100 City Attorney's Office Div
FUND: 50102 City Attorney's Office ISF

Account Number	Description	FY 01 Actuals	FY 02 Actuals	FY 03 Adopted	FY 04 Proposed	FY 04 Adopted
PERSONNEL SERVICES						
51101	Permanent Salaries	1,657,467	1,845,219	2,288,000	2,327,200	2,377,200
51102	Fringe	214,676	244,248	282,800	285,000	285,000
51103	Employee Leave Payoff	31,794	40,172	83,400	59,200	59,200
51201	Non-Permanent Salaries	23,988	10,577	0	0	0
51202	Non-Permanent Fringe	1,837	811	0	0	0
51301	Overtime	1,522	1,638	3,000	1,000	1,000
51401	Premium Pay	1,334	2,068	1,800	2,400	2,400
52302	Gen Svc Pens Oblig Bnd Dbt Svc	170,774	39,921	119,300	77,600	77,600
52401	Education	0	0	0	2,400	2,400
52601	Worker's Compensation	21,200	18,800	20,900	4,200	4,200
52901	Recurring Vehicle Allowance	7,200	7,200	7,200	10,800	10,800
	Total Personnel Services	2,131,792	2,210,654	2,806,400	2,769,800	2,819,800
NON PERSONNEL SERVICES						
53302	Prof Svcs/Consulting - Outside	36,924	8,571	50,000	50,000	50,000
53303	Public Relations & Information	755	0	1,000	2,000	2,000
53402	Specialized Services /Tech	4,565	2,015	6,000	9,000	9,000
54303	Service Contracts--Office Equip	3,500	3,500	3,500	3,500	3,500
54305	O/S Repair & Maint.--Equipment	105	877	500	500	500
55501	Printing & Binding--O/S Vendor	296	164	500	500	500
55801	Training	10,222	8,400	12,200	12,200	12,200
55803	Travel & Conference	376	0	2,000	2,000	2,000
55804	Misc. Subsistence Expense	0	146	200	200	200
56102	Office Equipment--Under 300	565	95	1,000	1,000	1,000
56106	Postage	1,520	1,772	2,000	2,000	2,000
56107	Office Supplies	14,120	12,279	9,500	11,000	11,000
56110	Computer Software	12,498	0	10,000	10,000	10,000
57411	New Machinery & Equipment	1,847	0	2,200	0	0
57431	Furniture & Fixtures	4,982	0	0	0	0
58005	Miscellaneous Expenditures	4,820	641	1,200	600	600
58016	Membership & Dues	5,743	9,383	7,400	7,500	7,500
58017	Subscriptions & Publications	27,964	30,128	32,600	35,100	35,100
59103	Variable Charges-Budget (BMSD)	3,300	3,200	3,200	2,500	2,500
59105	Purchasing - Variable Charge	291	0	0	0	0
59106	Variable Charges For HR-Oper	8,983	11,075	15,500	15,500	15,500
59107	Training Unit Charges HR	0	0	2,600	2,600	2,600
59108	Variable Charges For HR-Lab RI	4,000	3,500	4,400	4,400	4,400
59109	Variable Charges For Finance	14,262	16,800	18,200	18,200	18,200
59114	Internal Audit Var Chgs	1,800	2,100	1,400	800	800
59201	Fixed Interdept Reimb-Gen Fund	41,000	2,800	22,700	52,700	52,700
59302	Info Systems Service Charge	61,300	54,300	29,300	59,100	59,100
59303	Info Systems Equip Charge	114,725	107,519	34,700	57,700	57,700
59304	Property Self-Insurance Chgs	100	100	100	100	100
59305	Liability Self-Insurance Chgs	100	100	100	100	100
59306	Chgs For Msngr/Mail/Copier Svc	29,946	32,656	33,100	24,500	24,500
59307	Charges For Telephone Service	18,462	14,883	12,900	22,900	22,900
59309	Facilities Management Charges	117,988	127,645	104,800	108,300	108,300

City Attorney's Department

DIVISION: 140100 City Attorney's Office Div**FUND: 50102 City Attorney's Office ISF**

Account Number	Description	FY 01 Actuals	FY 02 Actuals	FY 03 Adopted	FY 04 Proposed	FY 04 Adopted
NON PERSONNEL SERVICES						
59312	Fleet Services Charge	212	182	500	500	500
59314	City Hall Rent	179,412	171,787	187,800	187,800	187,800
	Non Personnel Services	726,683	626,618	613,100	704,800	704,800
	FUND TOTAL	2,858,475	2,837,272	3,419,500	3,474,600	3,524,600